# Exhibit 3

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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STEVEN E. GREER, MD
an individual,

Plaintiff,

-against-

Dennis Mehiel, an individual, Robert Serpico, an individual, The Battery Park City Authority, a New York State authority, Howard Milstein, an individual, Steven Rossi, an individual, Janet Martin, an individual, Milford Management, a New York Corporation, and Mariners Cove Site B Associates, a New York corporation.

Defendants.

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DEPOSITION OF KEVIN McCABE

New York, New York

Thursday, April 6, 2017

Reported by:

Angela M. Shaw-Crockett, CCR, CRR, RMR, LSR

Job No: 122209

April 6, 2017

10:02 a.m.

DEPOSITION of KEVIN McCABE, taken by the Plaintiff, held at the offices of Sher Tremonte, 90 Broad Street, New York, New York, before Angela M. Shaw-Crockett, a Certified Court Reporter, Certified Realtime Reporter, Registered Merit Reporter, Licensed Shorthand Reporter and Notary Public of the States of New York, New Jersey and Connecticut.

A P P E A R A N C E S:

STEVEN GREER, MD
Plaintiff Pro Se
(Appearing Telephonically)

SHER TREMONTE
Attorneys for Defendants
ROBERT MICHAEL SERPICO
BATTERY PARK CITY AUTHORITY
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BY: MICHAEL TREMONTE, ESQ.
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BY: DEBORAH RIEGEL, ESQ.
(Appearing Telephonically)

ALSO PRESENT: Abby Goldenberg
Special Counsel and Risk Officer
Battery Park City Authority

** ** **

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the Attorneys for the respective parties hereto that filing and sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within examination may be signed and sworn to before any notary public with the same force and effect as though signed and sworn to before this Court.

** ** **

BY DR. GREER:

Q. Mr. McCabe, are you under oath?

MR. TREMONTE: Dr. Greer, that's harassing. I'm going to instruct the witness not to answer. Next question.

BY DR. GREER:

Q. Did you, Kevin McCabe, ever become concerned about Steven Greer, my behavior during any BPCA board meetings and concerned enough to justify you not letting me in to subsequent meetings?

MR. TREMONTE: Objection.

A. Yes.

BY DR. GREER:

Q. When did this behavior take place?

MR. TREMONTE: Objection.

A. I believe it was the June 9 meeting of 2015 where you repeatedly refused to leave the room when we adjourned for executive session and only did so when I threatened to call the police.

BY DR. GREER:

Q. Did you make any reports to Brookfield Security or the police department of New York City?

A. Subsequent to that meeting, the chairman, Mehiel, directed Brookfield to ban you from our

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offices at all times, again given your abusive and disruptive behavior.

Q. Abusive and disruptive are very broad. Be specific. What exactly was abusive or disruptive? What exactly did I do?

MR. TREMONTE: Objection.

A. Generally I know of several instances you've called and harassed staff. One in particular that I recall is hearing that you called Seema Singh directly at her office and called her a cunt.

BY DR. GREER:

Q. Is that -- we'll get to that in a second. That wasn't my question.

During this June 9, 2015, meeting where you claim that was the incident that motivated Chairman Mehiel to ban me from the offices, what exactly did I do?

MR. TREMONTE: Objection.

A. You interfered with the course of business with the board conducting executive session by refusing to leave the board --

BY DR. GREER:

Q. How?

MR. TREMONTE: Objection.

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you know, hear any -- anything further until -- until executive session is over.

Q. But tell me if I'm correct. You're describing, on June 9, that I refused to leave the public board meeting when you went into executive session, that I was standing in the boardroom, it was not filmed, and that you and I did not come into physical contact?

MR. TREMONTE: Objection.

BY DR. GREER:

Q. Is that correct?

A. No, you were welcome to attend the public board meeting. You were asked to leave during the private executive session.

Q. No, that wasn't the question.

Once I allegedly refused to leave the executive session, is it correct that you're saying I was standing, refusing to leave, and that you and I never touched one another?

MR. TREMONTE: Objection, asked and answered.

A. I answered that already.

BY DR. GREER:

Q. You can either reply and answer it again,

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or we can go through the laborious process of having them reread the transcript.

MR. TREMONTE: Objection.

BY DR. GREER:

Q. You misunderstood the --

A. Can you repeat the question?

Q. -- question before. Yes. Exactly. You didn't understand it before so that's why I'm repeating it.

I'm trying to detail the exact series of events that happened after the public session ended and the executive session was to begin and you claimed that I refused to leave and you claim -- what is that noise?

And you claimed that you had to threaten to call the police or security and so forth. I want to know what physically you and I were doing, how far apart were we, did we punch one another, et cetera? How did that happen?

MR. TREMONTE: Objection. Dr. Greer, I think that might be the most compound question I've ever heard.

You may answer it.

DR. GREER: Okay.

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A. Let me begin answering by explaining the process when we adjourn for executive session.

As I -- on June 9, as I do during every meeting, I clear the room of folks who are not a part of the executive session discussion. You were the remaining attendee that was still in the room that would refuse -- that was standing at the head of the table opposite Mr. Greer -- I mean Mr. Mehiel.

And as I -- we were very close. I'd say, you know, directly -- directly right next to each other, and I asked you to leave. And I said, "Do I need to call the police? Do I need to call the police? Do I need to call the police?" And only when I instructed our receptionist to call the police did you leave.

So we were --

BY DR. GREER:

Q. Did I ever -- continue.

A. So that's it. We were right next to each other and that's how the events happened.

Q. Did I strike you or punch you?

MR. TREMONTE: Objection, asked and answered.

MR. TREMONTE: Objection.

A. Again, given your behavior, we always made it a point to document interactions with you as a matter of practice.

BY DR. GREER:

Q. So you're being very vague and I can't pin you down. You're saying that I had this vague behavior problem, but I can't even determine whether it was from people coming to you and personally telling you about it or whether it was from some handwritten log. I've gotten no details.

MR. TREMONTE: That's not a question.

BY DR. GREER:

Q. Can you give me some details?

MR. TREMONTE: Objection to form. Details about what?

DR. GREER: What I just said in the previous sentence, Mr. Tremonte. You're wasting everybody's time.

MR. TREMONTE: Objection. There's not an intelligible question pending. I instruct you not to answer.

BY DR. GREER:

Q. All right. Let me ask it again.

You claim that in addition to the June 9 incident where I refused to leave a meeting, that on top of that I had exhibited, quote/unquote, abusive behavior to justify you then banning me from public meetings. I want to know what this behavior was, quote/unquote, and how you knew about it.

Did you know about it because you saw it yourself? Did you know about it because a witness came to you? Do you know about it because of a handwritten law?

MR. TREMONTE: Objection. That's now the most compound question I've ever heard.

You can answer.

A. I don't recall specifically every single incident. But again, now and again, the talk in the office would be their interactions with you as they occur.

With -- personally myself, at the May 2015 community board meeting where I ignored you and I did not respond to your question, you became upset at that and sat next to me and leaned your shoulder into me and said, "Do you have a problem?" That's another instance.

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BY DR. GREER:

Q. Okay. That instance you just described in May, what building did that take place in?

A. I don't remember specifically. I believe 1 Centre Street or wherever the community board used to hold their offices. Not at the Battery Park City office.

Q. So that did not take place during a BPCA board meeting; is that correct?

A. Correct. That was a Community Board 1 Battery Park City committee meeting.

Q. Now, regarding the -- as you very vaguely nebulously described abusive behavior, this is your opportunity on the record to tell me: Did they take place during a board meeting or not?

MR. TREMONTE: Objection.

If you can make sense of that -- actually, no. I can't make sense of it. Pose a new question that's understandable.

BY DR. GREER:

Q. So far, Mr. McCabe, you've listed one incident on June 9 where I refused to leave as a reason for Mr. Mehiel banning me from meetings. Then you gave a vague explanation of abusive

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attended by more than a hundred other people, you call that abusive and disruptive; is that correct?

MR. TREMONTE: Objection, misstates the witness's testimony.

BY DR. GREER:

Q. Mr. McCabe?

A. Yes.

Q. Okay. Thank you.

You've already acknowledged that Dennis Mehiel ordered me to be banned. I was going to ask that. You've already answered that.

In the course of preventing me to coming to board meetings from 2014, 2015, 2016, did you alert numerous people, you or The Battery Park City Authority, were people like Brookfield Properties Security or even the NYPD informed that I was a security threat?

MR. TREMONTE: Objection.

A. Again, based on Dennis's indication from following the June meeting, I would interact with Mulligan Security, who manages security on Brookfield's behalf, yes.

BY DR. GREER:

Q. And how would you tell them to not let me in, for what reason? How did you describe the reason to these third parties to not let me in? Was it because I was a mass murderer or because I was something less than that?

MR. TREMONTE: Objection. It's berating on top of not being a proper question.

Go ahead.

A. It was solely based on your consistent hostile behavior.

BY DR. GREER:

Q. Okay. Let me ask it this way: In e-mails or phone calls, when you told Brookfield Security or Mulligan Security "do not let me in," they must have asked why. How did you explain the reason for this?

MR. TREMONTE: Objection.

A. Consistent hostile behavior.

BY DR. GREER:

Q. Are you aware that the security staff of Mulligan man the gates before you walk up into the elevators to the offices of the BPCA -- they're on the main floor. Are you aware that they were telling me, on video, that the BPCA's decision to not let me in was silly and they didn't understand it at all? Are you aware of that? It's on video.

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BY DR. GREER:

Q. Exhibit 3 was a note I obtained at the same time on April 13 and I have video evidence of that. It discusses this overflow room. Let's discuss the overflow room.

First of all, this note, that handwritten note, did you see it? Were you aware of it? Did you write it? Who wrote it?

So this note, do you recognize that handwritten note? That's my question.

A. No.

MR. TREMONTE: Objection.

A. No.

BY DR. GREER:

Q. Regarding this whole plan to set up video overflow rooms or what Serpico said you called the off site, was that ever -- was that off site ever set up before, you know -- how many -- when did that off-site video overflow room program begin; do you recall?

MR. TREMONTE: Objection.

A. Yes, I believe it was the meeting -- the July 2015 meeting.

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BY DR. GREER:

Q. Was it set up specifically as a way to keep me out of the meetings?

MR. TREMONTE: Objection.

A. No. The chairman's instruction already kept you out of the meeting. I think we were cognizant of your interests to watch the meeting. So we provided an off-site location for any -- for you to view that, if you wished to do so.

BY DR. GREER:

Q. Did you ever tell Brookfield property employees that the video overflow room was set up specifically for me, as you just described? I'm paraphrasing what you just said. Did you ever tell anyone at Brookfield or the NYPD that that was the reason for the overflow room?

MR. TREMONTE: Objection. Objection. I mean, you -- you can't, in an argumentative fashion --

DR. GREER: "Objection," that's all you're allowed to say, Mr. Tremonte. "Objection."

MR. TREMONTE: -- summarize the witness's testimony. Please ask another --

DR. GREER: Objection, that's all you're

discussion or a matter of interest, as you described it? Why?

MR. TREMONTE: Objection.

A. Given your consistent hostile and abusive behavior, you were a matter of interest.

BY DR. GREER:

Q. How did the BPCA become aware of my apartment lease? Who informed the BPCA that my lease was not being renewed?

MR. TREMONTE: Objection.

A. I don't know.

BY DR. GREER:

Q. You heard it from someone.

You don't recall who?

MR. TREMONTE: Objection.

A. No, I don't recall.

BY DR. GREER:

Q. Does The Battery Park City Authority have any ability, to your knowledge, to directly affect, A-F-F-E-C-T, direct the impact or affect a residential lease, doing that unilaterally without the assistance of the building owner?

MR. TREMONTE: Objection.

A. No, not to my knowledge.

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BY DR. GREER:

Q. If an executive like Serpico, Shari Hyman, Dennis Mehiel wanted to vacate an apartment, would they have the power or authority to do that without the cooperation of the building owner?

MR. TREMONTE: Objection.

A. No, not that I'm aware of.

BY DR. GREER:

Q. Do you know who Howard Milstein is?

A. Yes.

Q. Have you ever met him in person?

A. Yes.

Q. Was that meeting in The Battery Park City Authority offices or somewhere else?

MR. TREMONTE: Objection.

A. Somewhere else.

BY DR. GREER:

Q. Was it for official business purposes that you met Howard Milstein or was it for a charity fundraiser or something like that?

MR. TREMONTE: Objection.

A. Official business.

BY DR. GREER:

Q. Did it take place within Battery Park